

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION

RICE ENGINEERING, INC.,

Case No. 04-C-0025

Plaintiff,

vs.

CUSTOM METALCRAFTERS, INC.,

Defendant.

ANSWER AND AFFIRMATIVE DEFENSES

Now comes the defendant and as and for an Answer to the claims of the plaintiff states as follows:

1. States they are without sufficient information and knowledge to form a belief as to the allegations of paragraph 1 of the Complaint and therefore deny the same and place the plaintiff to their burden of proof thereon.
2. Admits the allegations of paragraphs 2-8 of the Complaint.
3. Denies the allegations of paragraph 9 of the and places the plaintiff to their burden of proof thereon.
4. Denies the allegations of paragraphs 11-14 of the Complaint and places the plaintiff to their burden of proof thereon.
5. Admits the allegations of paragraph 15 of the Complaint.
6. Denies the allegations of paragraphs 17-18 of the Complaint and places the plaintiff to their burden of proof thereon.
7. Admits the allegations of paragraph 20 of the Complaint.

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8. Denies the allegations of paragraphs 21-22 of the Complaint and places the plaintiff to their burden of proof thereon.

9. States they are without sufficient information and knowledge to form a belief as to the allegations of paragraph 23 of the Complaint and therefore deny the same and place the plaintiff to their burden of proof thereon.

10. Denies the allegations of paragraphs 24-25 of the Complaint and places the plaintiff to their burden of proof thereon.

11. Admits the allegations of paragraphs 27 of the Complaint.

12. Denies the allegations of paragraphs 28-30 of the Complaint and places the plaintiff to their burden of proof thereon.

AFFIRMATIVE DEFENSES

As and for its Affirmative Defenses to plaintiff's Complaint, defendant further alleges and shows the Court as follows:

1. Upon information and belief, plaintiff fails to state a claim upon which relief can be granted.

2. Upon information and belief, there may have been an insufficiency of service of summons or process.

3. Upon information and belief, plaintiff's Complaint may be barred, in whole or in part, by applicable statutes of limitations.

4. Upon information and belief, plaintiff may have failed to mitigate their damages.

5. Upon information and belief, plaintiff failed to comply with the provisions of the Agreement, and such conduct constitutes a breach of its obligations.

6. Upon information and belief, plaintiff has misrepresented or concealed a material fact or circumstance in connection with the loss claimed by him, which is the subject matter of this action.

WHEREFORE, the defendant demands judgment as follows:

1. Dismissal of the Complaint.
2. For the costs and disbursements of this action.
3. For such other and further relief as this court may deem just, proper, and equitable under the circumstances.

Dated this 14th day of January 2004.

s/Gary L. Bendix
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